

IN THE SUPREME COURT OF THE STATE OF NEVADA

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POPE INVESTMENTS, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY; POPE INVESTMENTS
II, LLC, A DELAWARE LIMITED
LIABILITY COMPANY; AND
ANNUITY & LIFE
REASSURANCE, LTD., AN
UNKNOWN LIMITED COMPANY,
Appellants,

vs.

CHINA YIDA HOLDING, CO., A
NEVADA CORPORATION,

Respondent.

CASE NOS. 79807 & 80709

DISTRICT COURT CASE NO.
A-16-746732-P

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Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANTS' MOTION TO CONSOLIDATE APPEALS AND EXTEND
BRIEFING SCHEDULE FOR CASE NO. 79807**

COME NOW Appellants Pope Investments, LLC, Pope Investments II, LLC, and Annuity & Life Reassurance, Ltd., by and through their counsel of record, Richard J. Pocker, Esq., of the law firm Boies Schiller Flexner LLP and Peter Chasey, Esq. of Chasey Law Offices and move this Honorable Court to consolidate the two pending appeals, Case No. 79807 and Case No. 80709, arising out of the same action in the District Court below.

Pursuant to Rule 3(b)(2) of the Nevada Rules of Appellate Procedure, and for the reasons set forth below, the Appellants respectfully request that the Court consolidate the briefing and proceedings in these matters.

MEMORANDUM OF POINTS AND AUTHORITIES

The Appellants move to consolidate two separate appeals arising from the same underlying case in the District Court, as the appeals concern the same facts and circumstances, and resulted in an order granting summary judgment, and the District Court's separate order granting an award of attorney's fees. It is anticipated that the outcome of the appeal in Case No. 79807 will affect, if not determine, the outcome of the appeal in Case No. 80709. Therefore, as a matter of judicial efficiency and fairness to the parties, both appeals should be consolidated.

The underlying case in the District Court from which the appeals arise is a dissenter's rights action commenced by Respondent (hereinafter CYH) pursuant to Chapter 92A of the Nevada Revised Statutes. The action in the District Court terminated as the result of the District Court's granting of summary judgment in favor of CYH and against the Appellants on September 9, 2019. On October 9, 2019 the Appellants filed their Notice of Appeal challenging the order granting summary judgment. This pending appeal is Case No. 79807, currently before this Court.

Subsequent to the order granting summary judgment, CYH filed a motion for attorneys' fees. Following the briefing of said motion and after a hearing on November 6, 2019, the District Court entered its order granting the request for attorney's fees on January 28, 2020. The Appellants filed their Notice of Appeal with respect to attorney's fee order on February 26, 2020, and that pending appeal has been designated in this Court as Case No. 80709.

Rule 3(b)(2) of the Nevada Rules of Appellate Procedure provides that when multiple timely filed appeals are pending, "the appeals may be consolidated by the Supreme Court upon its own motion or upon motion of a party". Consolidation is looked upon with favor when the cases raise similar or the same issues, and when the joint consideration of those issues results in judicial economy. Prieur v. D.C.I. Plasma Center of Nevada, Inc., 102 Nev. 472, 726 P.2d. 1372 (Nev. 1986).

As noted earlier herein, the appeals in Case No. 79807 and 80709 arise out of the same underlying action in the District Court. By consolidating both appeals, the Court can address and resolve all of the parties' appellate issues in a single decision. As both appeals involve the same procedural history and factual issues, it will undoubtedly be more convenient for the Court to resolve all issues at once.

Currently, the opening brief in Case No. 79807 is due to be filed on or before April 15, 2020, and in Case No. 80709 the opening brief is not due until July 1, 2020. Should the Court agree to consolidate the appeals, the Appellants

request that the due date for the consolidated opening brief be extended to either July 1, 2020 or at the very earliest, May 15, 2020. The appeal in Case No. 80709, requires the completion of the transcript of the November 6, 2019 motions hearing, which is not yet complete. In addition, the worldwide corona virus pandemic has been extremely disruptive to the effective practice of law and the business activities of most businesses in the world, especially those like the parties in the present case located in China and the United States financial sector. Additional time to complete the briefing in a work environment free of such disruptions and uncertainty will enhance the quality of the advocacy necessary for the proper resolution of both appeals.

Based upon prior discussions between the undersigned counsel and counsel for CYH, CYH is not expected to object to the consolidation of Case No. 79807 and Case No. 80709.

Dated this 27th day of March, 2020.

BOIES SCHILLER FLEXNER LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BOIES SCHILLER FLEXNER LLP, and that on this 27th day of March, 2020, I electronically filed and served through the Nevada Supreme Court's E-Filing System (Eflex) a true and correct copy of the above and foregoing APPELLANTS' MOTION TO CONSOLIDATE APPEALS AND EXTEND BRIEFING SCHEDULE FOR CASE NO. 79807 addressed to the following:

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/s/ Shilah Wisniewski
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